

ANTI-DUMPING LEGISLATION

Hearings

50-66

(9)

HEARINGS

BEFORE THE

U.S. Congress House

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ON

H. R. 9983 and H. R. 10071

TO PROVIDE REVENUE AND ENCOURAGE DOMESTIC INDUSTRIES
BY THE ELIMINATION, THROUGH THE ASSESSMENT OF
SPECIAL DUTIES, OF UNFAIR FOREIGN COMPETITION,
AND FOR OTHER PURPOSES

OCTOBER 22, 1919

complete



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

copy

LIBRARY
ROOM 5030

MAR 12 1972

TREASURY DEPARTMENT

HF 1425
26
1919
Copy 2

COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS, FIRST SESSION.

JOSEPH W. FORDNEY, Michigan, *Chairman.*

J. HAMPTON MOORE, Pennsylvania.

WILLIAM R. GREEN, Iowa.

NICHOLAS LONGWORTH, Ohio.

WILLIS C. HAWLEY, Oregon.

ALLEN T. TREADWAY, Massachusetts.

IRA C. COPLEY, Illinois.

LUTHER W. MOTT, New York.

GEORGE M. YOUNG, North Dakota.

JAMES A. FREAR, Wisconsin.

JOHN Q. TILSON, Connecticut.

ISAAC BACHARACH, New Jersey.

LINDLEY H. HADLEY, Washington.

CHARLES B. TIMBERLAKE, Colorado.

GEORGE M. BOWERS, West Virginia.

CLAUDE KITCHIN, North Carolina.

HENRY T. RAINEY, Illinois.

CORDELL HULL, Tennessee.

JOHN N. GARNER, Texas.

JAMES W. COLLIER, Mississippi.

CLEMENT C. DICKINSON, Missouri.

WILLIAM A. OLDFIELD, Arkansas.

CHARLES R. CRISP, Georgia.

JOHN F. CAREW, New York.

WHITMELL P. MARTIN, Louisiana.

ERNEST W. CAMP, Clerk.

O. of 2.

APR 20 1920.

LIBRARY
ROOM 5030

MAR 12 1972

TREASURY DEPARTMENT

maß Oct 25, 1919

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Wednesday, October 23, 1919.

The committee met at 10.30 a. m., Hon. Joseph W. Fordney (chairman) presiding, to hear witnesses on H. R. 9983 and H. R. 10071.
(The bills referred to are as follows:)

[H. R. 9983 (by Mr. Fordney).]

A BILL To provide revenue and encourage domestic industries by the elimination, through the assessment of special duties, of unfair foreign competition, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act shall be cited as the "Anti-dumping Act," and that—

The "special duty" provided for in this act shall be levied upon merchandise imported into the United States of a class or kind identical to or comparable with a class or kind made or produced in the United States, or of a kind sold in competition with articles made or produced in the United States, to be determined and promulgated by the Secretary of the Treasury.

SEC. 2. That the term "United States" shall mean the United States and any Territory or place subject to the jurisdiction thereof, except the Philippine Islands, the Islands of Guam and Tutuila, the Virgin Islands, and the Panama Canal Zone.

SEC. 3. That the term "person" wherever used in this act shall be defined to mean and include any individual, partnership, corporation, association, or other body.

SEC. 4. That the term "foreign home value" wherever used in this act shall be defined to mean the price plus the cost of the package and the package charges at which such merchandise or similar merchandise comparable therewith in value is freely offered for sale in the principal market or markets of the country of exportation for consumption or use in said country in the ordinary course of trade and in the usual or fair average wholesale quantities that the same kind or class provided for in this act is sold in the United States.

SEC. 5. That the words "the value to countries other than the United States" wherever used in this act shall be defined to mean the value plus the cost of the package and the packing charges at which any merchandise or similar merchandise comparable therewith in value is freely offered for sale for exportation to countries other than the United States in the principal market or markets of the country of exportation in the ordinary course of trade and in the usual or fair average wholesale quantities that the same kind or class provided for in this act is sold in the United States: *Provided*, That any import duties or excise taxes rebated or not paid by reason of the exportation of such merchandise from the country of production or sale to the country other than the United States shall be added to export price.

SEC. 6. That the term "cost of production" wherever used in this act shall be defined to mean the cost of labor and material of the merchandise exported to the United States at the time of production plus the actual general expenses and a profit which is usually and ordinarily added to the cost of labor, material, and general expenses by manufacturers in the country of production of merchandise similar in material and production or manufacture and plus the cost of the package and packing charges.

SEC. 7. That the term "sales price" wherever used in this act shall be defined to mean—

(a) The price plus the cost of the package and the packing charges at which the person in the foreign country or his agent sells the merchandise to the

ANTI-DUMPING LEGISLATION.

person in the United States or his agent: *Provided*, That the person in the United States has no financial or other interest in the business of the person in the country of exportation shipping or selling the merchandise to the person in the United States.

(b) If it can be shown to the satisfaction of the appraiser, or the person acting as such, that the person in the United States, buying directly or through his agent in the United States or through a foreign agent, has any financial or other interest in the business of the person in the country of exportation shipping or selling the merchandise to the person in the United States, the appraiser or the person acting as such will secure from the person in the United States his sale price in the United States of the imported merchandise plus the cost of the package and the packing charges, and compare this price after due allowance has been made for all expenses included in said price incurred from the place of manufacture or purchase in the foreign country to the place of delivery in the United States with the sales price that the person importing the merchandise pays or has agreed to pay to the foreign shipper, manufacturer, or owner, and report to the collector as the sales price the lower of the two.

(c) If the merchandise imported into the United States has been secured from the foreign owner, manufacturer, or shipper otherwise than by purchase, the sales price plus the cost of the package and the packing charges will be the price at which the person importing the merchandise sells or agrees to sell the merchandise in the United States plus the cost of the package and the packing charges either prior to or subsequent to the date of importation, less all expenses, included in said price incurred from the place of shipment or manufacture in the foreign country to the place of delivery in the United States.

SEC. 8. That the foreign home value or the value to countries other than the United States, as the case may be, shall be taken at the date of sale or purchase of the merchandise exported to the United States, or if such merchandise is secured otherwise than by purchase, at the date of exportation of the merchandise to the United States.

SEC. 9. That whenever merchandise, whether dutiable or free, is exported to the United States of the class or kind provided for in this act, and the sales price is less than the foreign home value, or in the absence of such value is less than the value to countries other than the United States, or in the absence of such value is less than the cost of production, there shall be levied and collected, in addition to the duties on imported merchandise prescribed by law, a special duty in an amount equal to the difference between the sales price and the foreign home value or the value to countries other than the United States or the cost of production, as the case may be.

SEC. 10. That the appraiser, or the person acting as such, shall report and return to the collector his decision as to the foreign home value, or the value to countries other than the United States, or the cost of production, as the case may be, and the sales price.

SEC. 11. That if the appraiser, or the person acting as such, can not ascertain the sales price in the United States provided for in either (b) or (c) of section 7 of this act within 10 days after the entry of the merchandise he shall withhold his return to the collector under such regulations as the Secretary of the Treasury may prescribe.

SEC. 12. That if the collector shall deem the foreign home value, or the value to countries other than the United States, or the cost of production reported by the appraiser or the person acting as such of any imported merchandise provided for by this act to be too low, or shall deem the sales price of such merchandise to be too high, he may within six months after the date of such report and return appeal to reappraisal, which shall be made by one of the general appraisers, or if the importer, owner, agent of consignee of such merchandise shall deem the foreign home value, or the value to countries other than the United States, or the cost of production reported by the appraiser or the person acting as such to be too high, or shall deem the sales price reported by the appraiser or the person acting as such to be too low, and shall have complied with the requirements of the existing law with respect to the entry of such merchandise, he may within 10 days thereafter appeal to reappraisal by giving notice thereof to the collector in writing.

SEC. 13. That the general appraiser, in cases of reappraisal provided for in section 12 of this act, shall report to the collector of customs the foreign home value or the value to countries other than the United States, or the cost of production, as the case may be, and the sales price and such value or cost

of production and sales price shall be final and conclusive against all parties interested therein unless the owner, consignee, or agent of the merchandise shall deem such value or cost of production reported by the general appraiser to be too high or the sales price too low and shall within five days thereafter give notice to the collector in writing of an appeal, or unless the collector shall deem the report of such value or cost of production to be too low or the sales price too high, and shall within 10 days thereafter appeal to re-appraisalment by the Board of General Appraisers.

SEC. 14. That in all cases of reappraisalment or re-appraisalment provided for in sections 12 and 13 of this act the collector shall transmit the invoice and all the papers appertaining thereto to the board of nine general appraisers, to be by rule thereof duly assigned for determination. In such cases the general appraiser and the boards of general appraisers shall proceed by all reasonable ways and means in their power to determine the foreign home value, or the value to countries other than the United States, or the cost of production, as the case may be, and the sales price, and in so doing may exercise both judicial and inquisitorial functions. In such cases the general appraisers and the boards of general appraisers shall give reasonable notice to the importer and the proper representative of the Government of the time and place of each and every hearing, at which the parties or their attorney shall have opportunity to introduce evidence and to hear and cross-examine the witnesses for the other party and to inspect all samples and all documentary evidence or other papers offered. Affidavits of persons whose attendance can not be procured may be admitted in the discretion of the general appraiser or Board of General Appraisers.

SEC. 15. That no reappraisalment or re-appraisalment provided for in this act shall be considered invalid because of the absence of the merchandise or samples thereof before the officer or officers making the same, where no party in interest had demanded the inspection of such merchandise or samples, and where the merchandise or samples were reasonably accessible for inspection.

SEC. 16. That the decision of the appraiser, or the person acting as such (in case where no objection is made thereto, either by the collector or by the importer, owner, consignee, or agent), or the single general appraiser in case of no appeal, or of the board of three general appraisers, in all reappraisalment cases provided for in this act shall be final and conclusive against all parties, and shall not be subject to review in any manner, for any cause, in any tribunal or court, and the collector, or the person acting as such, shall ascertain, fix, and liquidate the amount of the special duty provided for in this act, in addition to the duties prescribed by existing law on such merchandise, or other merchandise subject of this act, but in no instances where such special duties are ascertained, fixed, and liquidated shall additional duties be assessed as provided for in paragraph 1 of section 3 of the tariff act of October 3, 1913.

SEC. 17. That if any person importing merchandise into the United States shall fail, at the request of the Secretary of the Treasury, or an appraiser, or person acting as such, or a collector of customs, as the case may be, to secure permission for a duly accredited officer of the United States to inspect any or all books, records, accounts, documents, or other papers pertaining to the value or classification of such merchandise, of the person selling, shipping, or consigning the merchandise to the United States, then the Secretary of the Treasury shall, while such failure or refusal continues, prohibit future importations into the United States of merchandise from such person by any importer.

SEC. 18. That if any person engaged in the importation of merchandise into the United States or engaged in dealing in such imported merchandise shall fail or refuse to submit for inspection of a duly accredited investigating officer of the United States upon request so to do from the collector or the appraiser, or the person acting as such, or any other officer of the United States customa duly authorized by law, any or all of his books or records, accounts, documents, or other papers pertaining to the value or classification of any such imported merchandise, then the Secretary of the Treasury, while such failure or refusal continues, shall prohibit the future importations of any merchandise imported into the United States by or for the purpose so refusing.

SEC. 19. That the consular invoice covering merchandise subject of this act that is actually purchased shall contain, in addition to the facts and details now required by existing law, the foreign home value, or, in the absence of such value, the value to countries other than the United States, or, in the

absence of such value, the cost of production, as the case may be, when such value or cost does not equal the sale price.

SEC. 20. That if any person engaged in the importation of merchandise into the United States shall give or receive a rebate or concession from the sale price, whereby the United States shall be deprived of the lawful duties or any portion thereof accruing upon the merchandise, or any portion thereof, without notifying the collector of such rebate or concession from the sales price, either at time of entry or afterwards, or shall fail or refuse to submit to the inspection by a duly accredited officer of the United States, when requested so to do, any or all of his books, records, or accounts pertaining to said merchandise, he shall upon conviction be fined for each offense a sum not exceeding \$5,000 or be imprisoned for a time not exceeding two years, or both, in the discretion of the court.

SEC. 21. That the special duty herein provided for shall be treated in all respects as regular customs duties within the meaning of sections 2077 and 2015 of the Revised Statutes, and paragraph 6 of section 4 of the tariff act of October 3, 1917, and all other statutes providing for drawback customs duties upon exportation of imported merchandise or articles manufactured or produced in the United States with the use of imported merchandise.

SEC. 22. That the Secretary of the Treasury shall designate or appoint a sufficient number of special agents or other officers having expert knowledge of the administration of customs laws, or appoint persons from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service laws, at a compensation not to exceed \$5,000 per annum, and actual traveling and subsistence expenses, when away from their official stations, not to exceed \$3 per diem, to determine such facts as are required to assist the Secretary of the Treasury in making proper investigations under this act and in securing uniform and proper appraisement and classification and, for these purposes, there is appropriated out of any moneys in the Treasury not otherwise appropriated, the sum of \$150,000 per annum or so much thereof as may be necessary.

SEC. 23. That the Secretary of the Treasury is authorized and directed to prescribe such rules and regulations as may be necessary for the enforcement of this act.

[H. R. 10071 (by Mr. Fordney).]

A BILL To provide revenue and encourage domestic industries by the elimination, through the assessment of special duties, of unfair foreign competition, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the "special duty" provided for in this act shall be levied upon merchandise imported into the United States of a class or kind identical or comparable with a class or kind made or produced in the United States, or of a kind sold in competition with articles made or produced in the United States, to be determined and promulgated by the Secretary of the Treasury.

SEC. 2. That the term "United States" shall mean the United States and any Territory or place subject to the jurisdiction thereof, except the Philippine Islands, the Islands of Guam and Tutuila, the Virgin Islands, and the Panama Canal Zone.

SEC. 3. That the term "person" wherever used in this act shall be defined to mean and include any individual, partnership, corporation, association, or other body.

SEC. 4. That the term "foreign home value" wherever used in this act means the value plus the cost of the package and the packing charges at which any merchandise or similar merchandise comparable therewith in value is freely offered for sale in its principal market or markets of the country of exportation for consumption or use in said country in the ordinary course of trade and in the usual or fair average wholesale quantities that the same kind or class provided for in this act is sold in the United States: *Provided*, That the term "foreign home value" shall not include any excise taxes levied against such merchandise and related or not paid when exported to the United States.

SEC. 5. That the words "the value to countries other than the United States" wherever used in this act means the value plus the cost of the package and the packing charges at which any merchandise or similar merchandise comparable therewith in value is freely offered for sale for exportation to countries other

than the United States in the principal market or markets of the country of exportation in the ordinary course of trade and in the usual or fair average wholesale quantities that the same kind or class provided for in this act is sold in the United States: *Provided*, That any import duties or excise taxes rebated or not paid by reason of the exportation of such merchandise from the country of production or sale to the country other than the United States shall be added to export price.

SEC. 6. That the term "cost of production" wherever used in this act means the cost of labor and material of the merchandise exported to the United States at the time of production plus the actual general expenses and a profit which is usually and ordinarily added to the cost of labor, material, packing charges, and general expenses by manufacturers in the country of production of merchandise similar in material and production or manufacture.

SEC. 7. That the term "sales price" wherever used in this act means—

(a) The price plus the cost of the package and the packing charges at which the person in the foreign country or his agent sells the merchandise to the person in the United States or his agent: *Provided*, That the person in the United States has no financial or other interest in the business of the person in the country of exportation shipping or selling the merchandise to the person in the United States.

(b) If it can be shown to the satisfaction of the appraiser, or the person acting as such, that the person in the United States, buying directly or through his agent in the United States or through a foreign agent, has any financial or other interest in the business of the person in the country of exportation shipping or selling the merchandise to the person in the United States, the appraiser or the person acting as such will secure from the person in the United States his sale price in the United States of the imported merchandise plus the cost of the package and the packing charges, and compare this price after due allowance has been made for all expenses included in said price incurred from the place of manufacture or purchase in the foreign country to the place of delivery in the United States with the sales price that the person importing the merchandise pays or has agreed to pay to the foreign shipper, manufacturer, or owner, and report to the collector as the sales price the lower of the two.

(c) If the merchandise imported into the United States has been secured from the foreign owner, manufacturer, or shipper otherwise than by purchase, the sales price, plus the cost of the package and the packing charges, will be the price at which the person importing the merchandise sells or agrees to sell the merchandise in the United States, plus the cost of the package and the packing charges, either prior or subsequent to the date of importation, less all expenses, included in said price incurred from the place of shipment or manufacture in the foreign country to the place of delivery in the United States.

SEC. 8. That the foreign home value or the value to countries other than the United States, as the case may be, shall be taken at the date of sale or purchase of the merchandise exported to the United States, or if such merchandise is secured otherwise than by purchase, at the date of exportation of the merchandise to the United States.

SEC. 9. That whenever merchandise whether dutiable or free is exported to the United States of the class or kind provided for in this act, and the sales price is less than the foreign home value, or in the absence of such value is less than the value to countries other than the United States, or in the absence of such value is less than the cost of production, there shall be levied and collected, in addition to the duties on imported merchandise prescribed by law, a special duty in an amount equal to the difference between the sales price and the foreign home value or the value to countries other than the United States or the cost of production, as the case may be.

SEC. 10. That the appraiser, or the person acting as such, shall report and return to the collector his decision as to the foreign home value, or the value to countries other than the United States, or the cost of production, as the case may be, and the sales price.

SEC. 11. That if the appraiser, or the person acting as such, can not ascertain the sales price in the United States provided for in either (b) or (c) of section 7 of this act within ten days after the entry of the merchandise, he shall withhold his return to the collector under such regulations as the Secretary of the Treasury may prescribe.

SEC. 12. That if the collector shall deem the foreign home value, or the value to countries other than the United States, or the cost of production reported

by the appraiser or the person acting as such of any imported merchandise provided for by this act to be too low, or shall deem the sales price of such merchandise to be too high, he may within six months after the date of such report and return appeal to reappraisalment, which shall be made by one of the general appraisers, or if the importer, owner, agent, or consignee of such merchandise shall deem the foreign home value, or the value to countries other than the United States, or the cost of production reported by the appraiser or the person acting as such to be too high, or shall deem the sales price reported by the appraiser or the person acting as such to be too low, and shall have complied with the requirements of existing law with respect to the entry of such merchandise, he may within ten days thereafter appeal to reappraisalment by giving notice thereof to the collector in writing.

SEC. 13. That the general appraiser, in cases of reappraisalment provided for in section 12 of this act, shall report to the collector of customs the foreign home value or the value to countries other than the United States, or the cost of production, as the case may be, and the sales price; and such value or cost of production and sales price shall be final and conclusive against all parties interested therein unless the owner, consignee, or agent of the merchandise shall deem such value or cost of production reported by the general appraiser to be too high or the sales price too low and shall within five days thereafter give notice to the collector in writing of an appeal, or unless the collector shall deem the report of such value or cost of production to be too low or the sales price too high, and shall within ten days thereafter appeal to re-appraisalment by the Board of General Appraisers.

SEC. 14. That in all cases of reappraisalment or re-appraisalment provided for in sections 12 and 13 of this act the collector shall transmit the invoice and all the papers appertaining thereto to the board of nine general appraisers, to be by rule thereof duly assigned for determination. In such cases the general appraiser and the boards of general appraisers shall proceed by all reasonable ways and means in their power to determine the foreign home value, or the value to countries other than the United States, or the cost of production, as the case may be, and the sales price, and in so doing may exercise both judicial and inquisitorial functions. In such cases the general appraisers and the boards of general appraisers shall give reasonable notice to the importer and the proper representative of the Government of the time and place of each and every hearing, at which the parties or their attorney shall have opportunity to introduce evidence and to hear and cross-examine the witnesses for the other party and to inspect all samples and all documentary evidence or other papers offered. Affidavits of persons whose attendance can not be procured may be admitted in the discretion of the general appraiser or Board of General Appraisers.

SEC. 15. That no reappraisalment or re-appraisalment provided for in this act shall be considered invalid because of the absence of the merchandise or samples thereof before the officer or officers making the same, where no party in interest had demanded the inspection of such merchandise or samples, and where the merchandise or samples were reasonably accessible for inspection.

SEC. 16. That the decision of the appraiser, or the person acting as such (in case where no objection is made thereto, either by the collector or by the importer, owner, consignee or agent), or the single general appraiser in case of no appeal, or of the board of three general appraisers, in all reappraisalment cases provided for in this act shall be final and conclusive against all parties, and shall not be subject to review in any manner, for any cause, in any tribunal or court, and the collector, or the person acting as such, shall ascertain, fix, and liquidate the amount of the special duty provided for in this act, in addition to the duties prescribed by existing law on such merchandise, or other merchandise subject of this act, but in no instances where such special duties are ascertained, fixed, and liquidated shall additional duties be assessed as provided for in paragraph 3 of section 3 of the Tariff Act of October 3, 1913.

SEC. 17. That if any person importing merchandise into the United States shall fail, at the request of the Secretary of the Treasury, or an appraiser, or person acting as such, or a collector of customs, as the case may be, to secure permission for a duly accredited officer of the United States to inspect any or all books, records, accounts, documents, or other papers pertaining to the value or classification of such merchandise, of the person selling, shipping, or consigning the merchandise to the United States, then the Secretary of the Treasury shall, while such failure or refusal continues, prohibit future importations into the United States of a merchandise from such person by any importer.

SEC. 18. That if any person engaged in the importation of merchandise into the United States or engaged in dealing in such imported merchandise shall fail or refuse to submit for inspection of a duly accredited investigating officer of the United States upon request so to do from the collector or the appraiser, or the person acting as such, or any other officer of the United States customs duly authorized by law, any or all of his books or records, accounts, documents, or other papers pertaining to the value or classification of any such imported merchandise, then the Secretary of the Treasury, while such failure or refusal continues, shall prohibit the future importations of any merchandise into the United States by or for the persons so refusing.

SEC. 19. That the consular invoice covering merchandise subject of this act that is actually purchased shall contain, in addition to the facts and details now required by existing law, the foreign home value, or, in the absence of such value, the value to countries other than the United States, or, in the absence of such value, the cost of production, as the case may be, when such value or cost does not equal the sale price.

SEC. 20. That if any person engaged in the importation of merchandise into the United States shall give or receive a rebate or concession from the sale price, whereby the United States shall be deprived of the lawful duties or any portion thereof accruing upon the merchandise, or any portion thereof, without notifying the collector of such rebate or concession from the sales price, either at time of entry or afterwards, or shall fail or refuse to submit to the inspection by a duly accredited officer of the United States, when requested so to do, any or all of his books, records, or accounts pertaining to said merchandise, he shall upon conviction be fined for each offense a sum not exceeding \$5,000 or be imprisoned for a time not exceeding two years, or both, in the discretion of the court.

SEC. 21. That the special duty herein provided for shall be treated in all respects as regular customs duties within the meaning of sections 2977 and 3015 of the Revised Statutes, and paragraph O of section 4 of the tariff act of October 3, 1913, and all other statutes providing for drawback customs duties upon exportation of imported merchandise or articles manufactured or produced in the United States with the use of imported merchandise.

SEC. 22. That the Secretary of the Treasury shall designate or appoint a sufficient number of special agents or other officers having expert knowledge of the administration of customs laws, or appoint persons from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service laws, at a compensation not to exceed \$5,000 per annum, and actual traveling and subsistence expenses when away from their official stations not to exceed \$8 per diem, to determine such facts as are required to assist the Secretary of the Treasury in making proper investigations under this act and in securing uniform and proper appraisement and classification and, for these purposes, there is appropriated out of any moneys in the Treasury not otherwise appropriated the sum of \$150,000 for the fiscal year ending June 30, 1920.

SEC. 23. That this act shall be cited as the "antidumping act."

SEC. 24. That the Secretary of the Treasury is authorized and directed to prescribe such rules and regulations as may be necessary for the enforcement of this act.

STATEMENTS OF MESSRS. GEORGE C. DAVIS AND OTTO FIX.

The CHAIRMAN. Mr. Davis, the committee wants to ask you gentlemen a few questions in regard to this bill. They want some explanations of provisions of the bill and their application. Questions as to the foreign value of money have been raised and we desire an opinion as to whether some mention should be made in the bill as to foreign exchange.

Mr. Kitchin has made a suggestion that seems to me to be most valuable. Mr. Davis, and that is to have a provision in this bill to require all exporters in foreign countries to make affidavit to the American consul that the value declared by him is correct. This might lay a foundation for arriving at the real facts as to foreign market values.

Mr. KITCHIN. If we are going to pass this bill, with section 4, relative to "foreign home value," we should require the exporter to state by affidavit what was the "foreign home value" of the article exported.

Mr. DAVIS. That is in the bill now. It might be made a little clearer.

Mr. KITCHIN. Of course, the Secretary of the Treasury could make that regulation.

Mr. DAVIS. It is in the bill now, in section 19.

The CHAIRMAN (reading):

That the consular invoice covering merchandise subject of this act that is actually purchased shall contain in addition to the facts and details now required by existing law, the foreign home value, or, in the absence of such value, the value to countries other than the United States, or, in the absence of such value, the cost of production, as the case may be, when such value or cost does not equal the sale price.

The suggestion is to make him make an affidavit to that.

Mr. DAVIS. That might be added, but under the existing law he makes affidavit to all those things. I think it is a good suggestion that it be added.

Mr. KITCHIN. It seems we had not carefully noted section 19.

The CHAIRMAN. I read the bill, but did not observe that section 19 referred to that feature.

Mr. LONGWORTH. The existing law is practically that now, is it not.

Mr. DAVIS. The existing law is that the shipper of the merchandise, if he actually sells it, must declare before the United States consul under oath the price he gets for his merchandise; if he does not sell, and sends it over on consignment, he then declares the price upon his invoice is either the market value of the merchandise or the price he would be willing to accept as a market value. That is required at the present time. In addition to that, he must state the home value at date of sale, or the value to countries other than the United States at date of sale, or, in the absence of those two, the cost of production. I think it would be just as well to add the oath feature to those statements.

Mr. KITCHIN. And the oath feature and make the penalty a little heavier than it is now.

Mr. DAVIS. Can you reach with any penalty?

Mr. OLDFIELD. You might prevent him from shipping in the future if he does not tell the truth.

Mr. DAVIS. We have that provision now.

Mr. YOUNG. You mean there is no way to reach him by a penalty or punishment imposed by a court?

Mr. DAVIS. No, sir.

Mr. KITCHIN. Or the fellow to whom he is consigning, or if he has an agent here. Before the war many sold through agents here.

The CHAIRMAN. Mr. Davis, would not the penalty clause in the back of the bill catch him?

Mr. DAVIS. Section 17 would cover that.

The CHAIRMAN. We can not go over there and punish a man by law in that country.

Mr. DAVIS. I think it is covered by section 17.

Mr. KITCHIN. If a man makes a false affidavit as to any material fact with respect to the value of the goods, is he prohibited from exporting any more goods here, under this bill?

Mr. DAVIS. I think section 20 covers that. No, section 20 would not reach the foreign shipper, but you could always reach the foreign shipper through the importer. You can always reach him in that way.

Mr. YOUNG. Would it not be well for Mr. Fix to sit beside Mr. Davis in order that they may collaborate in their answers to these questions?

The CHAIRMAN. Yes; I think that is a good suggestion.

Mr. GREEN. How would it do to start and read the bill (H. R. 9983) and ask questions as we go along?

The CHAIRMAN. I think that would be a good plan. We will follow that procedure.

Gentlemen, Mr. Kitchin suggests that lines 3 and 4 on page 1 be transferred to the back of the bill.

Mr. KITCHIN. That is to harmonize with other laws in regard to this matter—put it last instead of first.

The CHAIRMAN. Add it to section 23.

Mr. DAVIS. All right.

The CHAIRMAN. We will have the print of the new bill (H. R. 10071) here in a few minutes.

Mr. KITCHIN. Mr. Davis, would it not be better, in line 6, instead of using the word "merchandise," to use the words "article or articles"? Is not that broader than the term "merchandise," and do we not speak of "articles imported" instead of "merchandise imported" in all our tariff laws?

Mr. DAVIS. There has been more or less of a question on that. There was an old case, I do not recall just what it was, but it was an old case where the question was whether a carload of lime was an article or not. We thought that "merchandise" was broader. You can have both.

Mr. KITCHIN. Do not the tariff laws generally read "article" or "articles imported"?

Mr. DAVIS. The present law does; yes, sir.

Mr. KITCHIN. Would not that cover everything? I remember very well when we were writing the various revenue laws, including the Underwood Act, that we discussed that very question, and it came up again in the consideration of the 1916, 1917, and 1918 revenue acts as to whether it should be "goods, wares, and merchandise" or "merchandise," or the words "article" or "articles." Mr. Beaman, our expert draftsman, who is now the head of the drafting service of the House, specifically investigated it and he concluded and advised us that the words "article" or "articles" were sufficiently broad to cover everything and were the proper ones to be used.

The CHAIRMAN. Let me suggest that, in line 6, after the word "merchandise," insert "or article."

Mr. DAVIS. "Article or articles."

Mr. KITCHIN. Yes; I think that would be better. If everything that is imported—that is, of value—is not an "article," then our tariff laws have made a mistake every time in putting in that word instead of "merchandise."

Mr. DAVIS. "Merchandise" is anything that is subject to barter and sale.

Mr. FIX. That is broader than "article," it seems to me.

The CHAIRMAN. If you would insert the words "article or articles imported," after "merchandise," that would cover it.

Mr. KITCHIN. Why use a different term than has been used in other acts? Why do we use that word, instead of "article or articles," which has been used heretofore?

Mr. GREEN. It seems to me it is a good idea.

Mr. KITCHIN. Everything imported is an article.

Mr. GREEN. In the customs law I do not think you will find it that way.

The CHAIRMAN. What is "merchandise"? It is everything imported, is it not?

Mr. DAVIS. Anything that is a matter of barter or sale.

Mr. YOUNG. Why not have a separate section defining what merchandise is, and say it includes all articles, all stuff offered for sale for any purpose in the United States?

Mr. KITCHIN. All "articles" offered for sale are "merchandise." You are going to get right back to "articles."

The CHAIRMAN. I think you would cover without any question if you would insert those three words after the word "merchandise," in line 6, so it will read, "levied upon merchandise, article, or articles."

Mr. DAVIS. Mr. Chairman would not that bring about a construction? I think the safest thing to do is to stick to the phraseology of the present law, because if we change that phraseology, the present law covering "articles," they will ask why we changed it.

Mr. KITCHIN. They will say we must have had some purpose in changing it.

Mr. DAVIS. There is the danger.

The CHAIRMAN. Would you strike out the word "merchandise" in line 6, and have it read "article or articles?"

Mr. DAVIS. I would have the exact phraseology of the present law.

The CHAIRMAN. Whatever that is.

Mr. DAVIS. Whatever that is.

The CHAIRMAN. Whether it is "merchandise" or "article?"

Mr. DAVIS. It is not "merchandise."

Mr. KITCHIN. It should read: "Upon article or articles imported into the United States, of a class or kind essential to" etc. Mr. Davis, what do you mean by the phrase in the section "comparable with a class or kind made or produced in the United States"?

Mr. DAVIS. It means that we may have some things in the United States that are of the same class and kind as some merchandise in a foreign country, and yet it really is not comparable. For instance, china is made in the United States, and china is made in foreign countries. If it is dinner ware, table ware, articles that go into daily consumption and use in the United States, it is not only of the same kind or class but it is comparable; however, if it is art ware, which is peculiar to some foreign country and is not made here at all, it is of the same kind or class, but it is not comparable.

Mr. LONGWORTH. Do you think the phrase "identical to" is proper?

Mr. DAVIS. Yes, sir; because in some instances you will get almost an identical shipment into this country.

Mr. LONGWORTH. I mean the word "to."

Mr. DAVIS. I think "identical with" would be better.

Mr. LONGWORTH. "Identical or comparable with."

Mr. KITCHIN. Just strike out the word "to."

Mr. LONGWORTH. Then in line 10, instead of "which shall be determined," we thought it was better to say "to be determined."

Mr. DAVIS. I think it would have the same force, and I think it would read a little better.

The CHAIRMAN. Then you think, Mr. Davis, to strike out the word "to" in line 7, and let it read "identical or comparable with," would be better?

Mr. DAVIS. Yes, sir.

Mr. LONGWORTH. Then strike out "which shall" in line 10, and insert "to."

The CHAIRMAN. So that it will read "or of a kind sold in competition with articles made or produced in the United States, to be determined and promulgated by the Secretary of the Treasury."

Mr. LONGWORTH. Yes.

Mr. DAVIS. I think that is all right.

Mr. KITCHIN. In sections 2, 3, and 4, where it reads "shall be defined to mean," we struck out that phrase and put in the word "means." That also applies to the words "shall mean." We struck out the word "shall" and added an "s" to the word "mean," so that instead of saying "shall mean," or "shall be defined to mean," it will read in those sections "means." And in section 4, where it reads "that the term 'foreign home value' wherever used in this act 'shall be defined to mean' the value," we struck out the phrase "shall be defined to mean," and inserted "means," so that it will read "that the term 'foreign home value' wherever used in this act means" the value, etc.

Mr. GREEN. That is the usual language!

Mr. DAVIS. Yes, sir.

The CHAIRMAN. That is corrected, and that will be in the corrected bill when it comes.

Mr. KITCHIN. Take section 4, line 11, the words "plus the cost of the package and the packing charges," what do you mean by that? Do you mean the cost of the container?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. And then the cost of putting it up in the container; that is, of packing it?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. Does not the price of most articles sold include the cost of the container?

Mr. DAVIS. There is no rule.

Mr. KITCHIN. In an invoice for a case of shoes, say, do they invoice separately the shoes at so much and the container at so much?

Mr. DAVIS. Yes, sir. They invoice them both ways. Sometimes the value of the container is included, sometimes it is not; in most instances, it is not.

Mr. KITCHIN. As a part of the price?

Mr. DAVIS. It is extra to the price. For instance, china coming from Limoges, the unit value of the china has no relation to the barrel or the box, and at the end of every invoice they add the

barrel, or the hogshead, in which it is packed, and those hogsheads have a definite market value in Limoges. They are always extra.

Mr. KITCHIN. There are some, however, that do not separate the price of the container from the article, are there not?

Mr. DAVIS. I think the reason why the price of the container is usually separated on foreign invoices is because our laws have required that on the invoices for so many years.

Mr. KITCHIN. Suppose they import a case of tomatoes, they would not bill the tomatoes separately from the container, would they?

Mr. DAVIS. They do it both ways with tomatoes coming from Cuba.

Mr. KITCHIN. Well, then, say a box of shoes, a case of shoes, would they bill the shoes at so much and the box at so much?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. Is that the usual way?

Mr. DAVIS. That is the usual way.

Mr. KITCHIN. But there are some instances where they do not separate them? Here is the point: In those cases where they do not separate them, we do not want to add the price that is already included.

Mr. DAVIS. Oh, no; it would not be. If it was already included it would not be added.

Mr. KITCHIN. We might insert "when not included in the price of the article."

Mr. DAVIS. That could be added to make it plainer.

Mr. KITCHIN. We do not want to have other charges in there that are included. It would not be right.

Mr. DAVIS. I think that is a good suggestion. That should be added.

One reason, Mr. Kitchen, that packing charges must be separate from goods exported into the United States is because the packing of goods coming into the United States is entirely different from that used in foreign countries. They have their usual methods of packing in foreign countries, but when they come to send goods to the United States, with a long distance to go, the case must be heavier, reinforced.

Mr. YOUNG. What they call "export cases."

Mr. DAVIS. Exporting is entirely different from the home market.

Mr. FIX. In many instances merchandise is packed in American cases, and is entitled to free entry, and therefore is separate.

Mr. KITCHIN. I remember that provision now, but I had for the moment forgotten it.

Mr. FIX. Take tomatoes from Cuba, most of them sent to the United States are packed in American cases, and most of the merchandise coming from Great Britain.

Mr. YOUNG. You send the crates there?

Mr. FIX. We send the lumber and they make it into crates.

Mr. KITCHIN. All right. I think we understand that.

The CHAIRMAN. Do I understand that in line 11, after the word "charges," this language should be added, "when not included in the export price"?

Mr. DAVIS. I would simply say "when not included."

Mr. KITCHIN. Now, Mr. Davis, the main thing we desired to interrogate you gentlemen about is "the foreign home value" with respect

to an excise tax levied by the foreign country. As it is in section 4, under the determination of foreign home value, it would seem that the "foreign home value" must be the cost or price plus whatever excise tax is levied upon the home consumed article, since if the manufacturer in a foreign country is required to pay an excise tax, like, say, an excise tax on automobiles, or an excise tax on tobacco, then he offers that freely in his home market with the tax added. Now, when it is exported he has a rebate or no excise tax is levied, just as is done in the United States with respect to any exports. The value for export is less the excise tax. It would seem that the fair thing is the price offered freely in the home country, on the home market, in the foreign country from which it is exported, less the excise tax. Otherwise, we would make the American purchaser pay such a tax twice. We would make him pay the foreign excise tax on the article imported here, under this bill, and when it reached here it would be also subject to our excise tax, as is now provided by law.

Mr. DAVIS. If you can reach the foreign home value, and you get that value, the tax, of course, would be included in the price. It is almost impossible to deal with a home value, and then go to work and subtract out of that value some excise tax.

Mr. KITCHIN. Let us take an automobile, for instance. Say the price in the foreign country less the tax is \$4,000, and the excise tax on it is \$500. The manufacturer must pay that. That would be \$4,500 the foreign manufacturer must ask for his car in his home market. Of course, he charges it up to the purchaser or consumer. Now, when that car is exported, of course, the export price is less the excise tax, because the excise tax is on the internal, domestic use. Would it be fair to add that \$500 to the price here, and make the importer or American purchaser pay it in addition to the regular duty, as this bill proposes? That is not what we do. We have an excise tax on automobiles, but when we export them the price is less that excise tax; that is, we levy no excise tax when the article is exported. We have an excess tax on whiskey, we have an excess tax on tobacco, a very big one, but when we export them the excise tax is deducted, we collecting no excise tax on the article exported.

Mr. HULL. The export price is less the tax.

Mr. KITCHIN. Yes; the export price of the car is \$4,000. It is shipped here at that price. In the foreign country from which it is exported it is offered at \$4,500, because of that \$500 excise tax. Under this bill we would have to charge the importer or purchaser a "special duty" of \$500, since the exporter that is selling the importer or purchaser here for \$500 less than he is freely offering it on his home market. In addition to that, the importer or purchaser here would have to pay the regular tariff duty. It strikes me that would be putting a severe penalty on our citizens who buy the foreign car by making him pay to our Government the \$500 excise tax that the foreign country levies, and also when it gets over here make them pay our 10 per cent excise tax, or \$400, and in addition the regular tariff duty. This would mean, of course, no foreign trade in articles on which there was an excise or other domestic tax.

Mr. DAVIS. True, but is not that tax you speak of merely part of the man's overhead, just like his insurance, or any other charge he has to pay to his own Government for being in business?

Mr. KITCHIN. No; we would and do not count it that way. No nation counts it as part of the overhead. It is in no sense a charge with respect to the exported article, because no such tax is levied on the exported article.

Mr. GREEN. Mr. Kitchin made the suggestion yesterday that one of the most serious objections is that foreign countries might retaliate in the same way.

Mr. KITCHIN. They would do it, of course.

Mr. DAVIS. That is what we do now, and we have never had any trouble. We have a thousand cases pending now before the Board of General Appraisers on the excise tax in Japan. Some merchandise is sold for home consumption in Japan, and has to pay to the Government 10 per cent of the value of the material, but if the article is exported out of Japan the 10 per cent on the domestic material there is rebated, and we are adding that back now on all invoices. We have always added that under all tariff laws.

Mr. KITCHIN. I know, but you are not charging as a "special duty" that 10 per cent, because there is no such law. You may be adding that to the invoice price as the foreign home market value, upon which to assess present ad valorem duties.

Mr. DAVIS. No; we are merely taking duty on it.

Mr. KITCHIN. What authority in law have you for doing that? Take an automobile, say in Japan, with an excise tax of \$500, selling there at \$4,500 but exported here at \$4,000. Are you making the value of that \$4,500?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. On what authority?

Mr. DAVIS. On the reading of paragraph k, paragraph r, which says the market value must be the price the merchandise is freely offered for sale in the country of exportation.

Mr. KITCHIN. Then you just simply charge the tariff duty on a valuation of \$4,500 instead of \$4,000?

Mr. DAVIS. That is all.

Mr. KITCHIN. But here by this bill we are going to charge extra the \$500, and the regular duty on the \$4,500, and in addition the excise tax under existing laws.

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. Do you think that is the fair or proper thing to do? The idea of an antidumping act is to prevent foreigners from "dumping" on this country their surplus products at a price lower than they sell in their country, so as to unfairly compete with us. The foreign excise tax levied on the article for domestic use and not levied on the exported article, just as we do here, can have no possible connection with unfair competition or "dumping." When a \$4,000 car, export price, with the foreign excise tax off, comes in we levy on it our excise tax, which, so far as an excise tax goes, equalizes the imported car with our domestic or home-produced car.

Mr. GREEN. When we send our goods abroad, if such a provision was in force against us in the same way, it would transfer the tax our Government now collects to the foreign government.

Mr. KITCHIN. Yes.

The CHAIRMAN. Mr. Davis, if, as you say, you are adding that price now and collecting duty upon it, by leaving the language as it

is in the bill you are only penalizing him the amount of the duty on money paid for excise tax?

Mr. DAVIS. Not under this bill. Under this bill he would have to pay the full difference.

Mr. LONGWORTH. He would have to pay 100 per cent in every case.

Mr. DAVIS. He would have to pay 100 per cent.

The CHAIRMAN. We added yesterday, Mr. Davis, at the end of line 18, in section 4, this language:

Provided, That the term "foreign home value" shall not include any excise taxes levied against such merchandise and rebated or not paid when exported to the United States.

Mr. KITCHIN. Under the existing law you are still valuing it at what it was "freely offered" for in the foreign "home market."

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. But suppose we let that remain as it is.

Mr. DAVIS. That is going to be extremely difficult of administration.

Mr. KITCHIN. Why would it be, when we will require the manufacturer to say what excise tax there is, and would require our consul to see to that? And then our customhouse officials would have the foreign excise-tax laws.

Mr. DAVIS. Our consul will see nothing.

Mr. KITCHIN. We would or could require verification by affidavits as to the amount of excise tax.

Mr. DAVIS. They make all kinds of affidavits. An affidavit upon an invoice in the appraiser's office is not worth the paper it is written on. It is absolutely not worth the paper it is written on from most foreign countries. They will say anything on an invoice. The only way we can get at the facts is to have our own investigators go there and look at their books and find out the facts.

Mr. HULL. Is there no way of improving the services of the consul in that respect?

Mr. DAVIS. I do not think the consul will ever become expert enough to do that kind of work.

Mr. GREEN. What kind of work do you mean?

Mr. DAVIS. Foreign investigating work, checking up and arriving at the true market value. After he arrives at the true market value we have got to prove it. It has got to be proved over here before the general appraisers, and they can cross-examine witnesses, and have full judicial functions, and the Government has to put down the actual proof. That is a transaction, not what somebody says the market value is, but was this stuff sold and what was the price. The consuls never do that.

The CHAIRMAN. The American consuls are not competent to do that?

Mr. DAVIS. As a rule, they are not, and I do not think they ever will be, because it is in direct opposition to their other duties.

Just what would be meant by "excise tax?" Would that be import duties?

Mr. KITCHIN. No; that would be the internal domestic tax, just like our excise tax on automobiles, tobacco, etc.

Mr. FIX. It would be limited to that.

Mr. KITCHIN. Suppose a foreign country from which we import has been paying so much duty on the articles which are imported from other countries, when they are reexported or exported to this country, say, and that is rebated, the amount of the rebate should not be included in it the "foreign home value," if there is any practical way for us to exclude it.

Mr. GREEN. Not if it is rebated, but generally it is not rebated.

Mr. KITCHIN. If it is rebated, we do that here.

Mr. FIX. It is almost impossible, Mr. Kitchin, to get at that accurately. Take England, for instance, most of their raw materials are imported. Some of them may pay duty and some may not. The moment they produce other articles from that we do not know to what extent the imported articles entered into the construction of the particular thing that is exported. In limiting it to the excise tax we might be able to administer, but if you go to the extent of eliminating any import duties that might be rebated upon exportation we could not administer it.

Mr. GREEN. I do not think those ought to be eliminated.

Mr. FIX. You limit yourself to the consumption tax or the excise tax levied by the country.

Mr. LONGWORTH. They might add their income tax or excess-profits tax or all kinds of taxes.

Mr. FIX. Yes, sir.

Mr. KITCHIN. That would be a specific tax on specific articles.

Mr. LONGWORTH. They might include even the retail sales tax.

Mr. KITCHIN. There would be no imports of products sold by retail.

Mr. DAVIS. We have no such tax in France to-day. They have a retail tax, but no other.

Mr. KITCHIN. I just gave France as an illustration.

Mr. LONGWORTH. They have a so-called luxury tax in France, do they not?

Mr. DAVIS. Yes; but only on a dealer or retailer.

Mr. KITCHIN. According to Judge Green's suggestion we do not want other nations to retaliate on us, since many articles of our exports bear here an excise tax. Automobiles, for instance, bear an excise tax. We were exporting more automobiles than any other country when we entered the war, and we wish to continue such exports; so with manufactured tobacco and many other articles.

Mr. DAVIS. Yes.

Mr. KITCHIN. And we do not want other nations retaliating on us by adding our excise tax to their tariff duties on articles we export to them.

Mr. DAVIS. They would be apt to do it. I think that can very well be put in if it is limited to excise tax.

Mr. GREEN. Make it specific, so there will be no danger of it including anything but the manufacturer's tax on the particular article.

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. I am referring to the specific or excise tax. I think it would not be difficult to administer. You would have the law as to the specific or excise taxes of the different countries right before you. I should not think any exporter would make an affidavit

that he had to pay, say, \$500 excise tax on an automobile when sold in his country while such tax was actually less than that.

Mr. DAVIS. No; possibly they would not, but they will say anything at all on an invoice.

Mr. KITCHIN. We would have to require the exporter to make affidavit, etc.

Mr. DAVIS. We require lot of things in our present invoices that are rarely put there.

Mr. KITCHIN. That is the only way we can get at it.

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. You are going to have to require it?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. Whether you can make them comply with the requirement is another question.

Mr. DAVIS. We can make them do that, because we can reach the importer.

Mr. KITCHIN. Whatever we put in this bill we will make it an additional requirement for the importer to comply with as well as the exporter.

Mr. DAVIS. We have been over a year now trying to find out what this excise tax is in Japan. We had their tax law sent over here some months ago. We could not get it translated in this country. We found nobody who knew the Japanese language and knew the various business terms. It had to be sent back to Japan. We have not got it yet.

Mr. LONGWORTH. I wanted to ask you about section 4, the question of the effect of the various rates of exchange in determining the home value.

Mr. DAVIS. The Treasury Department is just about to issue regulations that we think will cover the exchange proposition, which permits the entry and the liquidation to be made on the actual exchange.

Mr. LONGWORTH. From day to day?

Mr. DAVIS. From day to day.

Mr. LONGWORTH. As the exchange may vary?

Mr. DAVIS. It may not be as close as from day to day.

Mr. LONGWORTH. I mean practically from day to day.

Mr. DAVIS. Yes, sir.

Mr. LONGWORTH. For instance, Germany, of course, is supposed to have the lowest rate of all. A mark is only worth about 6 cents.

Mr. DAVIS. It is under that; about 4½.

Mr. LONGWORTH. As this bill reads, without those regulations, suppose the home value in Germany is 4 marks, which is equivalent to a dollar at the even rate of exchange, but under the situation to-day it is only worth 20 cents. How would that work out under this bill, without any regulation?

Mr. DAVIS. It would take four times as many of those depreciated marks to buy the article.

Mr. FIX. We would appraise on the depreciated marks. We would appraise on the number of units of that currency that it takes to buy that article. If it is depreciated to that extent, it would be six times as much.

Mr. LONGWORTH. That is construed that way?

Mr. FIX. Yes, sir.

Mr. LONGWORTH. For instance, where German dyes sell at the rate of 4 marks a pound in Germany, if that is imported into this country it would be at the rate of 20 cents?

Mr. DAVIS. No, sir. We are not interested in what the mark is worth. We find out how many of those marks it requires to buy the article. For instance, the article is sold at 4 marks, standard or gold, and currency goes down to $4\frac{1}{2}$ cents. The man that buys that article will pay 24 marks at $4\frac{1}{2}$ cents apiece, where he used to pay 4 marks at 23.8 cents apiece. As the currency goes down the number of depreciated marks rises.

Mr. LONGWORTH. It does here, but does not there.

Mr. DAVIS. Oh, yes.

Mr. KITCHIN. The same here.

Mr. LONGWORTH. The rate of exchange there does not affect the value there to the extent of the depreciation of the purchase, by any means.

Mr. GREEN. I think Mr. Longworth is quite correct about that.

Mr. LONGWORTH. Not by any means.

Mr. DAVIS. We find the number of marks required to buy the article to-day is many times greater than the number required when the mark was at par.

Mr. LONGWORTH. I do not think you will find that.

Mr. KITCHIN. Do you express it in terms of dollars and cents when you make the valuation?

Mr. DAVIS. No, sir; the custom of the country.

Mr. LONGWORTH. Take the situation in Germany in regard to labor wages, which have about doubled since the beginning of the war in marks. According to that they have gone down 50 per cent.

Mr. DAVIS. There is a greater number of marks required to purchase the article now, owing to the fact there has been a depreciation. It is the same in lira.

Mr. LONGWORTH. Perhaps that is true of foreign exchange, but I am speaking of the determination of home values, which are the values for which it is freely offered in Germany. The foreign rate of exchange is not taken into consideration to the extent of depreciation of the mark in determining that value.

Mr. FIX. Suppose a man took a thousand United States dollars and went over there and had that exchanged into marks, he would get possibly 25,000 marks.

Mr. LONGWORTH. Yes.

Mr. FIX. He would take those 25,000 marks and go into the market and buy merchandise. He then has that merchandise invoiced. The total sum of that invoice would be 25,000 marks. It is brought back into our market in the United States, and it is liquidated at what rate? At the prevailing rate of exchange, which is 4 cents, and the dutiable value in the United States is the thousand dollars with which he bought it.

Mr. LONGWORTH. But that is true because there is a transaction between the countries, and the rate of exchange enters into the foreign and home value.

Mr. FIX. Yes, sir.

Mr. LONGWORTH. How do we determine the foreign home value? Do we translate it into dollars?

Mr. DAVIS. No, sir.

Mr. LONGWORTH. Then the home value is one-fourth what it ought to be.

Mr. FIX. Just let us illustrate it. Suppose they are selling a pound of a certain kind of dye for 50 marks. Now, anybody can go in the market and buy that dye at 50 marks. Now the mark is depreciated currency in our money, of course, but they must convert it into United States money. What did they do? He takes the prevailing rate of exchange. That is the only thing he can take. And he converts it and then assesses the duty in United States money.

Now 50 marks is the amount that it costs in Germany, and we are getting the duty on 50 marks based on its equivalent in United States money.

Mr. KITCHIN. In other words, an article that is offered here is freely offered in Germany at 100 marks, and you would value it here at 100 marks?

Mr. DAVIS. That is all.

Mr. KITCHIN. Whether appreciated or depreciated?

Mr. DAVIS. That is the idea.

Mr. KITCHIN. And if the 100 marks in Germany is only worth \$10, say, why it is worth \$10 here—the same thing as \$10 here.

Mr. DAVIS. That is the idea.

Mr. LONGWORTH. I am not sure whether I understand your point yet. Let us take a particular case. Suppose an article was sought to be imported into this country from Germany the foreign home price of which was 10,000 marks, and they sold it in this country for \$2,500 what would be the duty under this bill—the special duty?

Mr. DAVIS. The home value was 10,000 marks?

Mr. LONGWORTH. The home value was 10,000 marks, and they sold it in this country at \$2,500.

Mr. DAVIS. We would take 10,000 marks at the equivalent rate of exchange, $4\frac{1}{2}$ cents to the mark. That would be \$4,500. But I do not understand that any such thing as that could happen if the market value of the stuff over there is 10,000 marks.

Mr. LONGWORTH. It would not be \$4,500; it would be \$450.

Mr. DAVIS. Yes; but I can not understand how a thing of that kind could happen.

Mr. LONGWORTH. No; it would not be that.

Mr. KITCHIN. Four and one-half times 10,000, is is not— $4\frac{1}{2}$ cents a mark, which would be \$450.

Mr. LONGWORTH. But 10,000 marks—

Mr. KITCHIN. At $4\frac{1}{2}$ cents a mark would be \$450 in our money.

Mr. FIX. But no man in the United States would pay \$10,000 in Germany for that article that could be bought in Germany for \$450, I should not think.

Mr. LONGWORTH. I do not think we have that right yet. The mark is worth 25 cents normally. Now, suppose it is worth—you say it is down to $4\frac{1}{2}$ cents now?

Mr. DAVIS. Yes.

Mr. LONGWORTH. Yes; that would be \$450.

Mr. KITCHIN. In other words, if it is that way, one would just take \$450 and get 10,000 marks and buy the thing. That is the way it would work.

Mr. YOUNG. Mr. Longworth's proposition is this, that it reduces the cost in Germany. I think it does.

Mr. LONGWORTH. Of course.

Mr. YOUNG. It reduces their cost of production and increases their ability to compete.

Mr. LONGWORTH. Yes; but the trouble is, Mr. Davis says, that the price in Germany has gone up in marks and has followed the prevailing rate of foreign exchange.

Mr. DAVIS. No; not has followed the prevailing rate of foreign exchange, but so far as their own mark has depreciated as it compares with gold it requires more marks in Germany to buy an article to-day than it did before the mark went down.

Mr. YOUNG. But not more money.

Mr. DAVIS. But not more money; no; not more gold, but more marks.

Here is an illustration: Our special commissioner in France—now the French Government is not willing to admit on paper that their money has depreciated, but as a matter of fact their money has depreciated. Our special commissioner, when the franc was worth 19.3 cents, we will say, could go to a hotel for 20 francs a day. And now the franc is down to what?

Mr. FIX. About 11.5 cents.

Mr. DAVIS. Now the mark is down to 11.5 cents and consequently when he comes to the hotel, as he told me, at the Continental Hotel in Paris it is nearer 40 francs a day. The value of the franc has gone down, but the number of the francs has gone up. That happened in this country right after the Civil War.

Mr. LONGWORTH. That is true where the value is maintained in regard to gold, but does that necessarily follow the foreign rate of exchange?

Mr. FIX. It does not necessarily follow it, but it is very close to it.

Mr. LONGWORTH. Is it very close to it?

Mr. FIX. Yes; it is not absolutely the same, but it is close to it.

Mr. YOUNG. And it is apt to cheapen the production cost of the foreign country, because the number of marks paid for labor, etc., does not increase quickly when the marks depreciate. Such period of adjustment works to the advantage of the manufacturer.

The CHAIRMAN. In other words, whatever price is paid for an article in a foreign country, based upon the actual market value of their money, when it comes here it is measured on exactly the same value, but computed in the value of the American dollar. If the mark is depreciated there it is depreciated here exactly the same, and if 10,000 marks over there is only worth \$1,000 over here, and they paid 10,000 marks for an article over there, when it comes here it is worth but \$1,000 in our money.

Mr. DAVIS. That is what we mean.

Mr. KITCHIN. It equalizes itself. There is no doubt about it.

The CHAIRMAN. But it would depend on how you measure that value in the country from which the goods come. The value in one country measured in marks, francs, pounds sterling, etc., if it came from Germany, France, or England, you would have to base on the rate of exchange of the money of the country whence the goods come.

Mr. DAVIS. Certainly.

Mr. KITCHIN. They could take our money over there.

Mr. FIX. That is all, take our money over there.

Mr. KITCHIN. One thousand dollars would buy so many thousands of francs or marks, or whatever their money might be.

Mr. DAVIS. Let us go back again to the Limoges proposition for another illustration. I happen to be familiar with those figures because I heard them yesterday.

The number of francs required to buy a dish of Limoges china remains the same to-day as before the war, but they have added 190 to 200 per cent. All of that is not due to the depreciation of the franc, perhaps, but you can depend upon it a great deal of it is. Consequently, the man who buys that stuff not only there—and they get more francs for it there than they do here—has to pay the greater number of francs.

Mr. LONGWORTH. The franc compared to a mark is worth less in gold, is it not?

Mr. DAVIS. Yes.

Mr. LONGWORTH. Then if you are basing it on gold entirely, why has the mark depreciated 75 per cent more than the franc?

Mr. FIX. Because of the lack of credit behind it.

Mr. LONGWORTH. Exactly. But you say the price in Germany is dependent only on the gold price.

Mr. FIX. No; not only on the gold price.

Mr. LONGWORTH. That is what you say.

Mr. FIX. No; we say we appraise at the number of units in the currency at which the merchandise is bought. Now, it makes no difference whether they buy in francs. If they could buy in gold francs they would buy in gold francs. But they can not. But whatever currency is used, as many units of that currency as it takes to buy that particular article is the way we appraise it. We appraise it on the number of units of that currency.

Now, the question of the conversion of that currency is a question of the liquidation and that is under the rules and regulations of the Secretary of the Treasury.

Mr. LONGWORTH. Which have not yet been promulgated.

Mr. FIX. Which have not yet been promulgated, but shortly will be. Heretofore it has been the practice to appraise and then prove the question of liquidation at the current exchange. These new regulations are to obviate all this litigation.

Mr. LONGWORTH. I was speaking of the bill as it stands now before those regulations are promulgated. It would be difficult, would it not?

Mr. FIX. Naturally. It is just as difficult with any imported merchandise at the present time, because they have got to produce a certificate of depreciation and some countries will not admit there is a depreciation.

Mr. DAVIS. But that reduces their credit there.

Mr. FIX. Yes.

Mr. LONGWORTH. Without these regulations you can not do it?

Mr. FIX. No.

Mr. DAVIS. Without these regulations under this bill you would be more apt to get the liquidation made at the very high rate than at the very low rate, because the present law without these regulations is this, that if the American consul certifies to the fact that the currency is depreciated more than 10 per cent, then the collector may

liquidate on the basis of that certificate as to what it actually is, but the depreciation must be greater than 10 per cent.

If the depreciation is not greater than 10 per cent, we will take the full net value, 23.8. Now, if you can go into Germany and buy an article in Germany for 10 marks and then we come to liquidate, we took that mark in over here at 23.8 it would be nothing but prohibition. Merchandise could not come in. That is the best way in the world to keep it out.

Mr. LONGWORTH. I see what you mean.

The CHAIRMAN. At the end of line 18 the word "to" was omitted. We should insert the word "to" after the word "exported" on line 18.

Mr. DAVIS. Mr. Fordney, in regard to this excise tax I would make this suggestion: Would you allow us to give that just a little more study and name you to-morrow the phraseology that would cover it.

The CHAIRMAN. Yes.

Mr. YOUNG. Referring now to lines 4, 5, 6, and 7 on page 3.

Mr. LONGWORTH. No; the proviso at the end of section 4 on page 2.

The CHAIRMAN (reading):

Provided, That the term "foreign home value" shall not include any excise taxes levied against such merchandise and rebated or not paid when exported to the United States.

We added that proviso yesterday. I would be very glad indeed, Mr. Davis, to have you point out the necessity for this change or accepting the language contained in the old bill.

Mr. DAVIS. I would be very glad to give that a little further thought.

The CHAIRMAN. We are not going to take the bill up for passage but have decided to let it go over until the December session, and would be glad indeed, if you would go over that proviso, and we would appreciate it very much if, when you have decided on what would be proper, you would submit it to us.

Mr. DAVIS. We want to be very careful about this for this reason: We do not want the language to force us to run into all kinds of taxes.

The CHAIRMAN. I agree with you.

Mr. DAVIS. But the question is, is the simple use of the word "excise" a sufficient limitation, and we would have to give that a little careful study.

The CHAIRMAN. We want to be guided by your advice in this matter, because you deal with this matter every day and you ought to know better than we do—at least better than I do—about it, and I would be very glad to have such suggestion as you think best.

Mr. CRISP. You understand what the committee is driving at?

Mr. DAVIS. Yes, sir.

The CHAIRMAN. Now, the proviso beginning on line 3 of page 4:

Provided, That any import duties or excise taxes rebated or not paid by reason of the exportation of such merchandise from the country of production or sale to the country other than the United States shall be added to export price.

Some of us think that proviso ought to be stricken out.

Mr. DAVIS. It would be if we had the other.

Mr. Fix. Except as relating to import duties.

Mr. KITCHIN. Now, let us see about that. The section in question relates to the value of the articles reported to countries other than the United States. If a manufacturer in France, say, exports or reexports to all other countries, less any import duty which he has to pay in the article or materials in the finished article, like we do in our drawbacks on exports, or rather reexports, why should we put a higher duty or increase the duty to that extent because of that fact: when he sells to us on the same terms and at the same prices he sells to other countries? That is what you are going to do in that proviso.

You arrive at what the exporter is freely offering the same article in the markets of other countries than the United States. Now, if he offers an automobile, say, at \$4,000 to all other countries and the same to us, why do we care whether the foreign government of the exporter rebated an import or excise tax at all? We are getting it at their export value.

To ascertain whether they are "dumping" on us, selling here lower than they are selling to other countries in order to drive our fellows out of business, if the foreign exporter sells the article on the same terms to us as they are selling to other nations the question of excise or import tax should not enter into the question at all.

Mr. DAVIS. Perhaps you are right on that.

Mr. KITCHIN. We want you to think that over and let us know your conclusions on it.

Mr. DAVIS. Of course, there is this fact in connection with it: In order to get export trade in a foreign country they have got to give something; they have got either to give quality or got to give price. Now, there are several ways to give price. The manufacturer can deliberately sell to a foreign country at a lower price than he gets for home consumption, but if he can not afford to do that the Government itself will step in and make it possible for him to do it by taking the duty off.

Mr. KITCHIN. But if he is going to sell to this country at a price no lower than he is selling to other countries why that is all that we want to get at. Under the section there is no dumping.

Mr. DAVIS. That is all we are after.

Mr. KITCHIN. Yes; if you get that. So that does not cut any figure in it.

Mr. DAVIS. All right.

Mr. KITCHIN. Now, I will tell you what I think is the origin of the idea contained in the proposition if you will pardon me. I think this idea of adding the import duties or excise taxes rebated first struck you gentlemen, or whoever conceived this proviso, because of the fact that some nations, in order to build up an export trade, formerly gave, and a few now give, an export bounty or subsidy. Such a bounty or subsidy, of course, ought to be added, because such a subsidy or bounty would allow or enable the foreign exporter to cut prices or to sell below his home market price or below the cost of production. This might be termed unfair competition. I do not recall any right now, but I remember when we were discussing the Underwood tariff act a few nations gave on some articles an export bounty in order to encourage exports. Of course, such bounty should be added to the price whenever you find that.

Mr. DAVIS. That should be limited——

Mr. KITCHIN. Nothing in our suggestions would preclude you from doing that. We might put in a clause giving you specific authority, saying any subsidy or bounty granted by a government on exports should be added to the price. That is perfectly fair. Take chemicals and dyestuffs. Say our duty was 10 cents a pound on indigo. Germany could give a subsidy or bounty for all exports of indigo of 10 cents and thus frustrate our duty so far as its protection to our industries goes.

Mr. DAVIS. But not when she gets an export duty which amounted to 10 per cent. She would still be giving a subsidy, would she not?

Mr. KITCHIN. If she gives it on the export, but if it rebates on imports the domestic tax on the home-consumed article, just like we do in our imports, I would not call that a subsidy at all. We permit our manufacturers to have a rebate or drawback on their exported article to the extent (less 1 per cent) of any duty on it or on any material that entered into its production and we relieve the exported article of any excise tax. This is in no sense a bounty or subsidy.

Mr. DAVIS. Here is a concrete case: Embroideries are made in St. Gall, Switzerland—St. Gall embroideries. Now their best cloth is an Irish linen. Now let us say that the Irish linen comes into Switzerland and when it comes into Switzerland it has to pay duty. Now if they are going to export that out of the country into the United States they give the manufacturer or the importer a drawback.

Mr. KITCHIN. Like we do on our reexports.

Mr. DAVIS. Amounting to the duty they had to pay in the first place to get the Irish linen into their country. And that is what you want eliminated.

Mr. KITCHIN. Yes. If there is a practical way of administering it.

Mr. DAVIS. While on the other hand, if the French Government turned in and subsidized the manufacturer and says "You sell it at a loss and we will make your loss good to you," that is what we want to add.

Mr. KITCHIN. Yes, if it pays in any way a bounty or subsidy on exports. If it says, in order to encourage the exporter of this embroidery, it will give 10 cents a yard to the manufacturers on every yard exported to the United States or other countries that would be a subsidy.

Mr. DAVIS. Yes.

Mr. KITCHIN. And you would add that to the price, of course.

I believe we had better draw up some provision that will take care of that.

Mr. DAVIS. We will go into that very carefully.

The CHAIRMAN. Mr. Davis, prior to the war Germany owned 95 per cent of her railroads and gave a lower rate of freight on goods from an interior point in Germany to a seaport town. She gave a much lower rate of freight on goods for export than she would on domestic-made goods to be consumed in Germany, and in the case of the shipment of goods from a seaport town to the interior Germany gave a much lower rate on domestic goods than on imported goods. One was to discourage imports and the other was to encourage exports. This bill in arriving at the value or the price of

the article sold in the foreign country will cover that point, will it not, and give us relief?

Mr. DAVIS. No.

The CHAIRMAN. It will not do that?

Mr. DAVIS. Not on the freight rates.

The CHAIRMAN. No; I can see the point. If the article is sold at its foreign home value then the freight rates would not be considered.

Mr. DAVIS. The freight rates would be eliminated entirely.

The CHAIRMAN. Yes.

Mr. KITCHIN. We do practically the same thing here.

The CHAIRMAN. We do right the reverse. We give a lower rate on an imported article from the seaport town to the interior than we give on a domestic-made article from the seaport town to the same town in the interior.

Now, I can ship from my home town a carload of lumber to New York and I pay a certain rate of freight. I can ship that lumber to London, England, for the same price.

Mr. KITCHIN. That confirms what I said; we do the same thing. That enables us to get export trade.

Mr. DAVIS. But wouldn't it work this way, Mr. Fordney, that when we find the home foreign value we are not finding a delivered price?

Mr. KITCHIN. No; not at all.

Mr. DAVIS. Where they have had to pay a higher freight rate than on an export to the United States?

The CHAIRMAN. No.

Mr. DAVIS. We are getting the price f. o. b. factory and there is no freight involved in it at all.

The CHAIRMAN. In order to correct this, I suggest we must change our basis of value: base our values over here instead of over there, in order to reach that.

Mr. DAVIS. Yes.

Mr. YOUNG. Could not that be done?

The CHAIRMAN. It is a pretty big question, Mr. Young.

Mr. YOUNG. If we were reaching a delivered price from a foreign country we would have to take freight rates into consideration.

The CHAIRMAN. Yes.

Mr. DAVIS. But we are finding the f. o. b. price at the factory there.

Mr. KITCHIN. Yes.

Mr. DAVIS. Now, what it costs to take that somewhere else we do not care.

The CHAIRMAN. No.

Mr. FIX. And then, the same article manufactured in different factories would be a different price because of the distance from the seaport and the difference in the freight rate.

Mr. KITCHIN. Yes.

The CHAIRMAN. This matter I suggest is an entirely different proposition.

I will say to Mr. Young I am working on something and it is a big stumbling block. I have some drafts of suggestions that some gentlemen familiar with imports, etc., gave me, but it is pretty hard to cover.

Mr. KITCHIN. Now, go to section 12.

We have gone over the essential matters we desired to discuss with you gentlemen, but I desire to call your attention to page 6.

The CHAIRMAN. Before you do that are you going to go over this proviso on page 2, section 3?

Mr. DAVIS. Yes; we will take that right up.

Mr. LONGWORTH. Do not let us pass section 6 yet—the cost of production.

Mr. KITCHIN. All right.

The CHAIRMAN (reading):

That the term "cost of production" wherever used in this act means the cost of labor and material of the merchandise exported to the United States at the time of production plus the actual general expenses and a profit which is usually and originally added to the cost of labor, material, packing charges, and general expenses by manufacturers in the country of production of merchandise similar in material and production or manufacture.

Now, what was it you wanted to say?

Mr. KITCHIN. Some of us think it would be practically impossible for appraisers or customs officials to enforce that.

I recall that it took the tariff commission several months to ascertain the cost on a few articles of wool production in Great Britain. Now, here are hundreds of different articles coming in every day. How is it possible for the appraisers to get the cost of production abroad on each one or any number of those articles?

Mr. DAVIS. Well, it is a last resort, to start with. We would not have to turn to it often.

Mr. KITCHIN. I do not think you would ever have to turn to it.

Mr. DAVIS. Oh, yes; we would have to turn to it.

Mr. KITCHIN. How?

Mr. LONGWORTH. That is in cases where never offered for sale for home consumption or never offered for sale in foreign countries other than the United States.

Mr. DAVIS. Now, we have to turn to it to-day, but we are limited to the thing itself, and we can only take the cost of production of the thing itself, adding the profit of the particular man who makes it. Now, if we can not go beyond that, then the article that is made alone for export to the United States that is not sold in any other country than the United States but is made alone for exportation to the United States, that man to attempt to get his market will satisfy himself with a very low profit, or in order to get business he may cut profit out entirely.

Mr. KITCHIN. How do you find the cost of production? You have to take the exporter's or importer's word for it, do you not?

Mr. DAVIS. No; we go right to his books. We find out his actual cost of labor of material there, plus his overhead.

The CHAIRMAN. And if he declines to give the cost of production you prevent his importing it?

Mr. DAVIS. That is it. Now let us suppose they are making a lady's leather bag for the United States in France. Let us suppose they do not sell a lady's bag anywhere else in the world except in the United States, and consequently there is no foreign home value, there is no value in countries other than the United States; we go and get the cost of labor and material in making these bags plus the man's overhead.

Now we want a profit. There are plenty of manufacturers in France who are making all kinds of leather goods and we will usually get the usual profit of the trade.

Mr. KITCHIN. But they make some leather goods of some kind that is comparable with or comes in competition with this country for home use, do they not?

Mr. DAVIS. If we can find something that is comparable, if we can find another kind of a lady's bag that is of different shape, a different kind of leather, then it is comparable and we would not have to turn to cost of production at all. We would use market value of the comparable article. But there is not any lady's bag, is my illustration.

Mr. LONGWORTH. It is not hard to imagine a case.

Mr. KITCHIN. He says they have cases now. Give us an example of an article made abroad and sold to no other country except the United States.

The CHAIRMAN. Will you permit me there?

Mr. DAVIS, is it not true in Belgium and Japan there are tea sets of chinaware made in a pattern for use in the United States that are not made in the same pattern for use in any other country in the world?

Mr. KITCHIN. But they sell other china that is comparable with that china sold in the United States.

Mr. DAVIS. That is comparable with it.

Mr. KITCHIN. Of course.

Mr. DAVIS. Now give us an article where we are going to get at the cost of production, Mr. Fix.

Mr. Fix. We are getting it in St. Gall. We have a man there who gets the cost price and he posts that cost price. He gets the cost price for 100 stitches, the cost of the finishing and bleaching, and the profit and overhead to be added. He ascertains that from the manufacturers in that district, and it is posted in the consul's office in St. Gall every week. That is the cost of production. That is one of the ways and means.

Mr. KITCHIN. Do the customhouse officers have that duty especially? Is he one of your customhouse officers?

Mr. DAVIS. Yes, sir.

Mr. Fix. That is, for appraising purposes alone. And the reason is this: In the United States the buyer wants certain confined designs and won't buy it unless you give him that exclusive design. Therefore, every manufacturer is making a different design of embroideries and it is impossible to lay one embroidery alongside of another and determine the difference in value of the two. There are certain basic facts that have to be ascertained to determine that value; that is, the character of the cloth, the number of stitches in that pattern, the character of the yarn, how that cloth is finished. And after ascertaining all of those facts that are given on the invoices we add on the overhead, which is the usual overhead in that district and the profit, which is the usual profit in that district. Consequently, the St. Gall goods are appraised on the basis of the cost of production, which is the only way in which those goods can be appraised.

Mr. KITCHIN. I should not think the profit should go into the cost of production—the question of profit. Of course, overhead expenses would.

Mr. GREEN. It goes into the same thing.

Mr. FIX. Through the medium of cost of production we determine what the man would sell the merchandise at in getting a fair margin of profit on his costs.

Mr. LONGWORTH. Does this provision cover what you do?

Mr. FIX. Yes; except we have changed it in this way: Some countries are making goods for home consumption in very minor quantities. For instance take the Azores, take the Madeira Islands. They embroider and they make lace, but their population is very small and for home consumption there is a very little quantity concerned. It might be that a tourist buys a piece. The manufacturer sells there at an exorbitant price, because a man wants one piece of this and one piece of that, a very large assortment. However, he sells them for export and his profits are entirely different for export than for home consumption. Therefore, you will notice we use the words "in the usual or fair average wholesome quantities that the same kind or class provided for in this act is sold in the United States," so as not to be unfair in determining the profit to be added, because the profit for home consumption might be an entirely different profit than the profit added for export in the quantities bought and sold in the United States.

Mr. LONGWORTH. It would be very much less.

Mr. FIX. Yes; and that was to be fair.

Mr. DAVIS. I will admit it is going to be somewhat difficult to get at to get a fair average profit from the trade in general, but you have got to do it or you will not get anything.

Here is an article that is made alone for the United States; it is not sold in the United States because the American goes over to the other side—goes to the Isle of Azores—we will say, and manufactures his articles in the Azores by cheap labor. He does not sell it in the United States; he consigns it to the United States from himself to himself for the purpose of getting the cheap labor there. He could manufacture here but could not get the cheap labor and he goes to the Island of Azores and takes advantage of the skill of the workmen and makes it there and then invoices it to himself at the cost of production, and unless we have something to compare that profit with he can be satisfied with a very small profit if he wants to dump, and he can invoice without any profit at all, and keep it for six months or a year until he drives anything that is competitive out of business.

Mr. KITCHIN. Is it not rather usual for our large exporters, not including the exporters of grain and staple agricultural products, to sell to the foreigner a little less than they do to the home fellows? I understand the United States Steel Corporation does that.

Mr. LONGWORTH. That is really surplus.

Mr. FIX. It is to reduce overhead.

Mr. KITCHIN. Yes; but now the question comes as to the policy of our antidumping act the proposed bill with reference to the question of whether other nations will not retaliate and thereby handicap our exports. We are largely and always will be a larger exporting country than we will be an importing country.

Mr. GREEN. Other countries are doing that now. Canada has an antidumping law.

Mr. KIRCHIN. The question is whether the other nations will not retaliate and thereby affect our export trade to about the same extent as we will affect our import trade.

Mr. LONGWORTH. I guess it has been tried. The dumping of this country abroad has been an almost infinitesimal percentage of the total production. It is not nearly as prevalent in this country as it has been in other countries.

Mr. DAVIS. I do not know about that. Fifty per cent of the export prices to the United States to-day are lower than the prices in the home country and lower than the prices to other foreign countries.

Mr. LONGWORTH. That is what I say. It has been very much more the practice of other countries in dealing with the United States than it has been the practice of the United States in dealing with other countries.

Mr. DAVIS. Yes, sir.

Mr. LONGWORTH. It has been a very small percentage of our production sold abroad at less than the price at which sold here.

Mr. DAVIS. Yes, sir.

Mr. LONGWORTH. I take that as being a fact that would not invite retaliation.

Mr. KIRCHIN. If that is the fact it would not affect our exports so much.

Mr. LONGWORTH. No. I think that is the fact.

The CHAIRMAN. I will say, gentlemen, so far as a dumping law of this kind would go in the way of discrimination, no Government will take recognition of a discrimination of that kind when the importer attempts to violate our laws. For instance, Canada has an antidumping law to-day and she enforces it a great deal stronger than the language of the law calls for, and we have never discriminated against Canada.

Just a few days ago I had occasion to look up the imports and exports, the balance of trade, between this country and Canada and between this country and Cuba when we were passing our repeal of Canadian reciprocity. Canada has strictly enforced her law against us and it has operated more strongly against us than against any other country in the world, but I see the balance of trade has gone on just the same as ever and our shipments to Canada and her shipments here have gone on without interruption and our Government takes no recognition whatever of this quarrel between the Canadian Government and the undervaluation of goods going into Canada.

Mr. KIRCHIN. Without having Canada specially in mind, we are retaliating, if there be such a thing as doing that, by this bill, and is it wise that we should?

The CHAIRMAN. Well, really Canada is not the government we are legislating against. It is Germany, Belgium, France, and Japan that we have to guard against more perhaps than other countries. Germany has practiced this discrimination of undervaluation more than any other country in the shipment of goods to this country.

Mr. DICKINSON. What officials of the Government determine this cost of production?

Mr. DAVIS. The appraiser's office through its investigating officers abroad.

Mr. DICKINSON. If the goods come into the port of New York do they determine it there?

Mr. DAVIS. No; we have to have an investigation made to determine it on the other side. It has to be determined in the foreign country.

Mr. KITCHIN. You have authority, then, under the present law to send some official or agent of the Treasury Department or of the customhouse bureau, whatever you may call it, to any foreign country to ascertain the market value of articles imported here, that is, the home market value of them?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. And you have the authority without giving it to you especially by this bill to send to any foreign country one of your agents or employees to ascertain the cost of production, if you find you must resort to that method of ascertaining the value?

Mr. DAVIS. Yes, sir; but we would have to have the necessary men. We have not the men now.

Mr. KITCHIN. But you have the authority if you had the men.

Mr. DAVIS. We have the authority if we had the men.

The CHAIRMAN. But you have not the authority to compel these people to open their books?

Mr. DAVIS. No, sir. The present law says that the Secretary of the Treasury may, if they refuse to open their books, charge 15 per cent extra. Well, on a rising market, where the rising market has gone to 200 per cent what good is the 15 per cent?

Mr. KITCHIN. Mr. Davis, how long have you been connected with the Government?

Mr. DAVIS. Twenty-nine years.

Mr. KITCHIN. With the customhouse service?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. How long have you been connected with it, Mr. Fix?

Mr. Fix. About 30 years.

Mr. KITCHIN. Well, you have had considerable experience and ought to know what you are talking about.

The CHAIRMAN. We evidently got hold of the right fellows to help us on this bill.

Mr. DAVIS. In introducing us you got us a little mixed. I am not an appraising officer. I am a special officer of the Treasury Department. I was formerly the chief appraising officer of the port of New York, but I was brought on here a few years ago and we started a bureau called the C. M. R. bureau to disseminate information and keep the various appraising officers and customs stores throughout the United States supplied with the proper information and proper prices to classify, and information not classifying, foreign products. We have our foreign service, they report to us, and we are a disseminating bureau, and we get out this price information quickly and send it all over this country, sometimes by telegraph, and it has brought about splendid results, as it has brought uniformity of value and uniformity of classification.

Now there will be much more of that kind of work if this goes into effect.

Mr. Fix is an examiner in the New York appraiser's store, who has been detailed into this bureau with me on account of his wide knowledge of the values of merchandise.

Mr. DICKINSON. When you get the value of a given article, do you give that to the various customhouses?

Mr. DAVIS. Yes, sir; immediately.

Mr. DICKINSON. What I had in mind, if one person fixed it at one price and another fixed it at another price, it would vary.

Mr. DAVIS. Yes; that is the way it used to be, but this bureau has eliminated that.

The CHAIRMAN. Do you want to ask anything further?

Mr. KITCHEN. I want to ask about section 12, page 6, line 13. I will begin to read in line 12 "the person acting as such of any imported merchandise provided for by this act to be too low, or shall deem the sales price of such merchandise to be too high" you mean by that lower, say, than the home value in the foreign country?

Mr. DAVIS. No, sir.

Mr. KITCHEN. You do not mean for us to put it in your discretion to say whether this or that value is too high or too low, with no rule to go by?

Mr. Fix. This is the collector's authority.

Mr. DAVIS. The rule is in section 7, where it defines what the sales price is. That must be the actual price.

Here is what we are getting at: There is a firm in the United States incorporated under the laws of the State of New York—taking Haviland & Co.—and that company is incorporated under the laws of France. Their factory is in Limoges. They are two separate and distinct concerns, yet they have interlocking directorates, interlocking stockholders. As a matter of convenience between Haviland & Co., of Limoges, and Haviland & Co., of New York, they can arrange any price they want to pay for that merchandise, either high or low. Now if the market price in France is \$1, they can arrange to bill that stuff at \$1, and there is no dumping, but the minute they get it here they turn around and sell it not at \$1, but at 80 cents, and that is the price we want to reach. Consequently, we want to determine whether that price is too high on the invoice. That can only be determined by the actual fact which is provided for in the definition.

Mr. KITCHEN. You would limit that to those who have agents here or where the parties here have an interest in the business?

Mr. DAVIS. Yes, sir; that comes in definition (a) in section 7, "Provided, That the person in the United States has no financial or other interest in the business of the person in the country of exportation, shipping or selling the merchandise to the person in the United States." Then in case he has definition (b) enables the appraiser to go out and compare those two prices. They must be actual. And then he takes the true one.

Mr. KITCHEN. But this section 12 ought to be confined to certain cases and not to every case.

Mr. Fix. Section 12 is for the collector. If the collector believes the appraiser did not go according to the law, then he is allowed to ask for reappraisal and go to the board of general appraisers.

Mr. DAVIS. For instance, an appraiser would report a sales price on an invoice as correct. He might be a careless officer; he may not have made any investigation. There must be some safety valve, there must be some officer who checks him up. That officer is the collector of customs, and if he finds out the appraiser has accepted this price on the invoice as right but the collector feels it to be wrong he has a right to take an appeal to get the proper price suggested.

Mr. KITCHIN. Suppose we made a rule here as to the foreign home value and suppose they find the foreign home value is, say, \$1.

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. That is it. But now they are selling it here at 80 cents. Then you will add 20 cents?

Mr. DAVIS. Yes, sir.

Mr. KITCHIN. Suppose he is selling here, though, for \$1, which is the home value, by this provision this customhouse officer could say, "That home value is too low," or it is "too high," or the sales price here is too high, although we may find the facts to be in exact conformity with the foreign home value section.

Now, if he finds, of course, upon looking over the matter that the foreign home value has not been appraised correctly, then he should have the power to raise it to the actual home value, but we should not let it be in his discretion to say the home value is too low or too high and fix it in his discretion.

Mr. DAVIS. It is not within his discretion. He could not do anything at all. He merely takes the appeal and then goes before the general appraiser, and the paragraph then says the general appraiser must ascertain the actual value.

Mr. KITCHIN. Then why not put it if he ascertains, as provided by this act, to be lower than the foreign home value or the value to countries other than the United States, or the cost of production as the case may be, that then he should change it accordingly? But that language in section 12 gives him the right to levy and assess import duties.

Mr. GREEN. No; he can only take an appeal.

Mr. FIX. He shall apply for reappraisal—line 15.

Mr. KITCHIN. I understand. What you want is if he finds it lower than the foreign home value or lower than the value to other countries then he should fix the correct home value.

Mr. FIX. That phraseology can be altered.

Mr. DAVIS (reading):

If the collector shall deem the foreign home value, or the value to countries other than the United States, or the cost of production reported by the appraiser or the person acting as such to be too low—

that is the phraseology of our present law. If he deems the market value reported by the appraiser to be too low, then he has the right to take an appeal.

Mr. HADLEY. That goes back to the language "foreign home value" in the first line of the section.

Mr. DAVIS. It goes right back to the "foreign home value, or the value to countries other than the United States, or the cost of production."

Mr. KITCHIN. I see. That may be corrected by the appeal.

Mr. DAVIS. It is just the right of appeal.

Mr. KITCHIN. And on that appeal they must confirm the actual home value or the actual value to countries other than the United States or the actual cost of production.

Mr. DAVIS. Or the actual sales price.

Mr. KITCHIN. Yes; of course.

Mr. LONGWORTH. But that is simply a reappraisalment.

Mr. KITCHIN. Of course, you have to take the sales price and the home value and the value to other countries in order to arrive at any conclusion.

Mr. FIX. That is exactly the same as our present language except we have inserted the words "too high."

Mr. LONGWORTH. I want to inquire what difference does it make if too high, because it only increases the duty?

Mr. FIX. It does make a difference, because if they report the sales price too high you will not have the differential. Suppose we found the sales price to be \$1 and the foreign price to be \$1, and they are selling it here for 80 cents?

Mr. KITCHIN. Then you have got to add that 20 cents.

Mr. FIX. Yes, sir.

Mr. HADLEY. It would open the door to dumping.

Mr. DAVIS. Certainly, because the importer would very gladly make the sales price just as high as he could, because thereby he would avoid the dumping duty.

Mr. GREEN. You are correct. I had lost sight of what that referred to.

Mr. DICKINSON. Suppose nine-tenths of the goods are shipped to this country, they might raise the price of the small amount sold in their own country in order to get the advantage here.

Mr. DAVIS. You mean raise the foreign market home value?

Mr. DICKINSON. Yes.

Mr. DAVIS. If they did that, and their sales price was lower than that they would have to pay the tax.

Mr. LONGWORTH. Do you think the penalty of \$5,000 is high enough, in section 20?

Mr. DAVIS. We have only used the same amount that is fixed in the old law.

Mr. FIX. There is confiscation in addition to it, you see.

Mr. LONGWORTH. Yes; but one deal might net a good many hundreds of thousands of dollars.

Mr. FIX. Yes; but we go back to that deal. They don't get away with that.

Mr. DAVIS. Section 11 permits, you see, to go back to cover the lower sales price if it occurs after the merchandise is imported, because we give the appraiser authority to withhold his return.

Mr. LONGWORTH. That is right.

Mr. KITCHIN. I am very glad you have come, because you have given us considerable information.

Mr. DAVIS. There is one more point. They told us over in the Treasury Department this morning they believed that in section 16 we should have a period at the end of "act," line 10.

Mr. HADLEY. Which page?

Mr. DAVIS. Page 9. Put a period after "act" and end at "but in no instances where such special duties are ascertained, fixed, and liquidated shall additional duties be assessed as provided for in

Paragraph I—that should be, and not one—” of section 3 of the tariff act of October 3, 1913.

They suggest that be taken out for this reason, that under our present law if merchandise is invoiced at 80 cents and their foreign value was \$1 and they entered it at 80 cents the appraiser advances up to \$1 and they have to pay 1 per cent for every 1 per cent they have undervalued. The Treasury Department feels, and we do, too, that the penalty for undervaluation under our present law should remain, because this importer, if he actually pays 80 cents, has a right to increase his value to \$1 at the time of entry, saving himself the penalty.

Mr. GREEN. I called attention to that yesterday.

The CHAIRMAN. The bell has been sounded for a roll call. We will adjourn.

(Thereupon, at 12.10 o'clock p. m., the committee adjourned.)